

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BRETT C. TITTLE,

Plaintiff,

v.

Case No. 06-C-0938

**SERGEANT MICHAEL CARVER and
OFFICER MARK W. ROONEY,**

Defendants.

ORDER

Plaintiff, Brett C. Tittle, filed this pro se civil rights action pursuant to 42 U.S.C. § 1983. This matter comes before the court on the plaintiff's motion for default judgment and the defendants' motion for leave to take the plaintiff's deposition.

On June 19, 2007, the plaintiff filed a motion for default judgment asserting that the defendants failed to timely file an answer to the complaint. Federal Rule of Civil Procedure 12(a) provides that a defendant shall serve an answer within 60 days after the request for waiver is sent. In the present case, the defendants were sent waivers on April 16, 2007. (See Docket # 39). The defendants filed an answer to the complaint on June 14, 2007. (See Docket # 40). In light of the foregoing, the defendants' answer is timely for purposes of Rule 12(a). Accordingly, the plaintiff's motion for default judgment is denied.

On August 7, 2007, the defendants filed a motion for leave to depose the plaintiff pursuant to Federal Rule of Civil Procedure 30(a)(2). A party must obtain leave of the court, "which shall be granted to the extent consistent with the principles stated in Rule 26(b)(2)," if the person to be

deposed is confined in prison. Fed. R. Civ. P. 30 (a)(2). In general, parties may obtain discovery regarding any matter that is relevant to the claim or defense of any party. Fed. R. Civ. P. 26(b)(1).

As grounds for their request, the defendants submit that the plaintiff has personal knowledge and information pertinent to the facts of the case. Based on this, the court is satisfied that the plaintiff's deposition may lead to the discovery of relevant material. See Fed. R. Civ. P. 26(b)(1). Accordingly, the defendants' motion for leave to depose the plaintiff is granted.

As a final matter, the plaintiff has filed a "Motion for Demand for Discovery and Inspection Pursuant to F.R.C.P. 26(a)(1)(e) and Rule 30." Inasmuch as the plaintiff is not required to file a motion with the court if he seeks discovery from the defendants, his motion was simply docketed as a discovery demand. However, if after personally consulting with the defendants, the parties are unable to reach an accord, the plaintiff may file a motion to compel discovery. See Civil L.R. 37.1 (E.D. Wis.). Such motion must include "a certification that [the plaintiff] has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action." Fed.R.Civ.P. 37(a)(2)(A).

NOW, THEREFORE, IT IS ORDERED that the plaintiff's motion for default judgment (Docket # 43) is **DENIED**.

IT IS FURTHER ORDERED that the defendants' motion for leave to depose the plaintiff (Docket # 46) is **GRANTED**.

Dated at Milwaukee, Wisconsin this 16th day of August, 2007.

BY THE COURT:

s/AARON E. GOODSTEIN
United States Magistrate Judge